

1 language in -- on 1296?

2 A On 1296, I think I've seen a version like  
3 this before, but, you know, I'm not sure where  
4 this came from.

5 Q Have you seen it before today?

6 A Yes.

7 Q On Question 31?

401/403

8 A On Question 31.

9 Q Do you know if Commerce wrote this  
10 language or Census Bureau wrote this language?

11 A I don't know.

12 Q What would tell you?

13 A I -- you know, seeing who wrote -- who  
14 sent the last version. So, I don't know.

15 Q So I previously showed you a version that  
16 Dr. Abowd represented was the final version --

17 A Right.

18 Q -- do you recall?

19 A Yeah.

20 Q And that version had the longer  
21 Question 31 language --

22 A Right.

1 Q -- correct?

2 A Yes.

3 Q Yeah?

4 A Yes.

5 Q And so if we understand the version that  
6 Dr. Abowd said was final to include the longer  
7 Question 31, does that tell you anything about who  
8 changed the language on 1296?

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9 MS. BAILEY: Objection. Form.

10 THE WITNESS: Yeah. I don't -- no, not  
11 particularly. Probably -- not Dr. Abowd, but --

12 BY MS. GOLDSTEIN:

13 Q Did you change the language in 31?

14 A I did not.

15 Q Did anyone at Census change the language  
16 in 31?

17 A I don't know.

18 Q Did you review this language in 31 before  
19 it was sent to Commerce?

20 A I --

21 MS. BAILEY: Objection. Asked and  
22 answered.

1 THE WITNESS: I don't recall.

2 BY MS. GOLDSTEIN:

3 Q Is there anything that would help you  
4 recall?

5 A I don't know.

6 Q Do you know why this language was  
7 changed?

8 MS. BAILEY: Objection. Asked and  
9 answered.

10 THE WITNESS: I assume it's an attempt to  
11 summarize the longer answer of the question.

12 BY MS. GOLDSTEIN:

401/403

13 Q Were there any discussions that you took  
14 part in as to why this language was changed?

15 MS. BAILEY: Objection. Asked and  
16 answered.

17 THE WITNESS: Do not recall.

18 BY MS. GOLDSTEIN:

19 Q If the Census Bureau had changed this  
20 language, would John Abowd have been aware of the  
21 change?

22 A Yes. I would think so.



1 Q Yes, you would?

2 A Yes.

3 Q Had Census Bureau, to your knowledge,  
4 ever taken the position that it was not bound by  
5 past precedent when considering an agency's  
6 request before?

7 A No. And I think -- I think the only  
8 degree to which the Census Bureau in this instance  
9 was not following past procedures is because the  
10 Census Bureau took the position that the question  
11 had been tested via the ACS. That's the only  
12 aspect of the process that -- that we believed  
13 didn't need to be undergone.

14 Q And when you say the Census Bureau took  
15 that position, who in the Census Bureau?

16 A You know, I think the technical team,  
17 every -- you know, management, everybody agreed  
18 that this question has been thoroughly tested on  
19 the ACS.

20 Q Are there -- has a question ever moved  
21 from the ACS to the short form before?

22 A Not that I know of.

PL obj: 802  
(lines 14-19)



1 Q And are there any quality standards that  
2 address moving questions from one survey to  
3 another?

4 A Not in particular. I mean, quality  
5 standards are roughly the same across all the  
6 surveys. Obviously, the census is different than  
7 the surveys in the sense that it's a census. We  
8 ask everybody. So, you know, generally, you get  
9 better quality on the census than you would in a  
10 survey because you're asking everybody.

11 Q Any statistical standards that govern  
12 moving a question from the ACS to the decennial?

13 A Not standards that don't apply everywhere  
14 else.

15 Q What do you mean?

16 A I mean, the statistical standards  
17 are -- count for everything, not just -- so --

18 Q But you're not aware of any guidance that  
19 goes to the process of moving a question from the  
20 long form to the short form or the ACS to the  
21 short form, correct?

22 A No.

1 Q Some are on paper?

2 A Yes.

3 Q Some are in person?

4 A Well, most surveys are multimode --

5 Q Okay.

6 A -- any more, so.

7 Q Is it fair to conclude that a question is  
8 going to perform the same way on one survey that  
9 it might on a different survey?

10 MS. BAILEY: Objection. Calls for  
11 speculation.

12 THE WITNESS: It isn't necessarily.

13 BY MS. GOLDSTEIN:

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14 Q Why not?

15 A Well, the -- you know, the modes will  
16 matter.

17 Q What else matters?

18 A The -- you know, the length and  
19 complexity of the survey.

20 Q What other sorts of things can cause a  
21 question to perform different ways on different  
22 surveys?



1       A     You know, we talked earlier about, you  
2     know, changing attitudes about the government and  
3     stuff like that.     So if one survey is seen as --  
4     as, you know, coming from the government or a part  
5     of the government that they have bigger issues  
6     with, it may perform differently than, you  
7     know -- so Census Bureau does pretty well with the  
8     surveys because the public generally tends to  
9     trust the Census Bureau, so.

10 Q But even within the same survey, can a  
11 changing political climate impact how a question  
12 performs?

13 MS. BAILEY: Objection. Calls for  
14 speculation.

15 THE WITNESS: Again, it might. There's  
16 been no analysis to say that, one way or the  
17 other.

18 BY MS. GOLDSTEIN:

19 Q And that's my next question. Has the  
20 Census Bureau performed any analysis as to whether  
21 or not the citizenship question will perform the  
22 same way on the short form as it has on the ACS?



1           A    No.   We don't -- but I'll come back to  
2   say we don't have a good way of doing that.   401/403

3           Q    Would the National -- if the citizenship  
4   question had been included in the  
5   National Content Test --

6           A    So that -- go ahead.

7           Q    I'm sorry.

8                If the citizenship question had been  
9   included in the National Content Test, would that  
10   have given the Census Bureau any information as to  
11   response rates?

12           MS. BAILEY:   Objection.   Hypothetical.

13           THE WITNESS:   Most likely not.   So you  
14   have to remember that the context of the decennial  
15   census is done as a nationwide activity with a  
16   huge advertising outreach and partnership campaign  
17   that you're never going to replicate in a small  
18   scale test.   You're not going to replicate it on  
19   the ACS.   To the degree that you think the  
20   political environment is something that might  
21   impact response rates to a particular question,  
22   you need to mimic the political environment that

1 will exist when they're doing it. And the -- you  
2 know, the amount of exposure that the census will  
3 get during the live census is, you know, part of  
4 that environment, and we just can't test that. So  
5 the only thing we can test right now is whether  
6 people understand the question, and whether they  
7 can answer it, and whether they answer it at a  
8 rate sufficient to provide high-quality data. The  
9 answer to those questions is all in the  
10 affirmative.

11 BY MS. GOLDSTEIN:

12 Q In the context of the ACS, correct?

13 A In the context of the ACS. Or in the  
14 context of -- of that 2018 end-to-end test. We  
15 wouldn't have learned anything in addition to  
16 that, so.

17 Q The -- if the citizenship question had  
18 been included in the 2018 end-to-end test, would  
19 you have gotten item nonresponse rate data?

20 MS. BAILEY: Objection. Calls for  
21 speculation.

401/403

22 THE WITNESS: Yes. We would have gotten



1 item nonresponse rate data. It would not  
2 have -- it would not have answered the question of  
3 what things would look like during the 2020  
4 census, no more than the ACS does. 401/403

5 BY MS. GOLDSTEIN:

6 Q Why do you say that?

7 A Because they're both done outside of that  
8 context.

9 Q So the race and ethnicity proposed  
10 changes were tested, correct?

11 A They were tested to see if people  
12 understood and could answer the question and what  
13 the relative data quality of the different  
14 questions was. The experiment was against the  
15 different questions.

16 Q Is it possible to test a survey -- so --

17 A We could have tested two versions of a  
18 citizenship question --

19 Q And the census --

20 A -- that might have been informative, but  
21 not whether a, you know, citizenship question  
22 versus no citizenship question.



1 Q Why couldn't you have tested that?

2 A What?

3 Q Why could -- a citizenship question  
4 versus a non- -- no citizenship question?

5 A I think -- I just argued that. Without  
6 doing it in decennial, we won't know what  
7 that -- in that context.

8 Q So just to make sure I understand. It's  
9 your position that we can't know how the  
10 citizenship question performs on the census until  
11 you have a census?

12 MS. BAILEY: Objection. Mischaracterizes  
13 prior testimony.

14 BY MS. GOLDSTEIN:

15 Q Is that a fair summary?

16 A So that in -- in the 2020 census, the  
17 environment will be radically anything that we can  
18 mimic in a test.

19 Q Which is always the case for the  
20 decennial?

21 A Which is always the case.

22 MS. GOLDSTEIN: Why don't we take a break

1 A Uh-huh.

2 Q I'm sorry?

3 A Yes.

4 Q And if we look at F, explore nonfederal  
5 surveys for research on the impact of citizenship  
6 questions on survey response rates, do know you if  
7 the Census Bureau has done that?

8 A I -- I don't know.

9 Q And, again, would Ms. Battle be the  
10 person who knows this?

11 A Yes.

12 Q Anyone else?

13 A Well, members of her team.

14 Q Sure. And what would nonfederal surveys  
15 for research on the impact of citizenship  
16 questions on survey response rates tell us?

17 A Same thing that E would, what other  
18 people have experienced.

19 Q And let's look at G, conduct a  
20 National Content Test with a split sample where  
21 half the respondents received the citizenship  
22 question and half do not. Comparing the response

1 rates across the two groups would be the primary  
2 way to test the impact of the citizenship question  
3 on survey response rates.

4 Has this sort of test been run for the  
5 citizenship question? 401/403

6 A It has not, as far as I know.

7 Q And do you agree that this methodology  
8 set forth in Subparagraph G would be a way to test  
9 the impact of the citizenship question on survey  
10 response rates?

11 MS. BAILEY: Objection. Form.

12 THE WITNESS: It -- yes. It could be.

13 BY MS. GOLDSTEIN:

14 Q Do you know of any plans to test the  
15 citizenship question in this form?

16 A No, I do not.

17 Q I'll take that back. Thank you.

18 Part of your job, Dr. Jarmin, is to  
19 appoint people to advisory committees; is that  
20 correct?

21 A Yes.

22 Q And what is the role of advisory



1 committees in the decennial census?

2 MS. BAILEY: Objection. Vague.

3 THE WITNESS: So advisory committees,  
4 largely, are to give advise on various  
5 Census Bureau methods and operations, how Census  
6 can reach out to various communities to do our  
7 job.

8 BY MS. GOLDSTEIN:

9 Q Why does the Census Bureau have advisory  
10 committees?

11 A Well, I think we try to be, generally,  
12 transparent in how we do our business. The  
13 advisory committees are one way of achieving that.

14 Q How many advisory committees does the  
15 Census Bureau have that are involved in the  
16 decennial census?

17 A Two.

401/403

18 Q What are those two?

19 A The National Advisory Committee and the  
20 Census Scientific Advisory Committee.

21 Q Can you tell me what the responsibilities  
22 of the National Advisory Committee are?

1           A    So National Advisory Committee is largely  
2   made up of stakeholder -- representative  
3   stakeholder groups, largely from hard-to-count  
4   communities to advise us on how to properly reach  
5   out to be able to make sure those communities are  
6   counted. 401/403

7           Q    And the Census Scien- -- the Census  
8   Scientific Advisory Committee, what is that?

9           A    Sort of all scientific methodology  
10   matters across the Bureau.

11          Q    So can you talk to me about how the  
12   National Advisory Committee is typically involved  
13   in the decennial census process?

14          A    So -- well, we have, you know, two  
15   meetings a year, and, you know, they've been kept  
16   apprised of all the planning and development of  
17   the 2020 design throughout the decade. So, you  
18   know, been able to comment on it all along.

19          Q    When you say they've been kept apprised  
20   of the 2020 design, what do you mean?

21          A    Of how we're going to do the 2020 census.

22          Q    When was, if at all, was the



1 National Advisory Committee notified of the  
2 citizenship question?

3 A So I believe when it became public, that  
4 the request from Art Gary had come in.

5 Q Is the National Advisory Committee  
6 typically consulted by Census Bureau before the  
7 Census Bureau makes decisions --

8 MS. BAILEY: Objection. Vague.

9 BY MS. GOLDSTEIN:

401/403

10 Q -- regarding the decennial census?

11 A With a subset of decisions.

12 Q What kind --

13 A We can't consult them on every decision  
14 we make on a huge program like the census --

15 Q Of course.

16 A -- but generically, they're kept apprised  
17 of our plans and in a timely input, that they  
18 could have input on ultimate decisions.

19 Q And why is it important for the  
20 National Advisory Committee to have input on these  
21 decisions?

22 A We think that it helps us do a better



1 census.

2 Q And you just distinguished between some  
3 decisions that you're not able to keep the  
4 National Advisory Committee in the loop for and  
5 some that you are.

401/403

6 A Right.

7 Q Can you explain the kinds of decision  
8 that the National Advisory Committee is brought  
9 into the loop on?

10 A So they were brought in, you know, on our  
11 basic, you know, multimode collection strategy.  
12 They're -- they have some input on our  
13 communications and outreach program that's been  
14 particularly interesting to them. They were  
15 apprised of the National Content Test and other  
16 sort of mid-decade testing activities.

17 Q Is it fair to say that the  
18 National Advisory Committee is involved in the  
19 bigger decisions of the Census Bureau with respect  
20 to the decennial census?

21 A Generally, yeah.

22 Q Okay. And is there a specific mechanism

1 for the --

2 A So can I go back?

3 Q Absolutely.

4 A They have input on -- let's be clear.

5 They are not involved in any decision-making

6 processes.

7 Q So that's what I'm curious about. How --

8 what's the process for the National Advisory

9 Committee to give input, and how does that get

10 back to the Census?

401/403

11 A So there's --

12 MS. BAILEY: Objection. Compound.

13 THE WITNESS: There's a formal way that

14 all the advisory committees, CSAC and NAC, after

15 each meeting, they give written recommendations to

16 the Bureau.

17 BY MS. GOLDSTEIN:

18 Q What form do those recommendations take

19 place?

20 A What do you mean, what form? They're

21 written.

22 Q It's like a memo?



1 A Yeah.

2 Q Who does it go to?

3 A The director.

4 Q Who is you, right now?

5 A And then, you know, disbursed to various  
6 parts of the Bureau for response and action.

7 Q And typically, when you get a memo from  
8 NAC or CSAC, what is your process for dealing with  
9 it? 401/403

10 MS. BAILEY: Objection. Vague.

11 THE WITNESS: So we have a relatively  
12 formal process by which it gets disseminated to  
13 the various subject matter experts that need to  
14 weigh in on it, and then responses are drafted  
15 and, you know, it's all, you know, delivered back  
16 to NAC or CSAC, whichever the case may be.

17 BY MS. GOLDSTEIN:

18 Q And it's the same for NAC and CSAC?

19 What's the timeline for delivering back  
20 to the NAC?

21 A So we usually try do it as quickly as  
22 possible, but sometimes some of these things take,



1 you know, some time to sort through. But  
2 certainly before the next meeting.

3 Q Does the NAC play any role in changing or  
4 adding questions to the census?

5 A When we've contemplated changes, they've  
6 weighed in on that, but they don't play a role  
7 in -- I mean, they can suggest, like anybody else  
8 can, but they don't have a -- they don't have any  
9 more formal role than anybody else does in that  
10 regard. 401/403

11 Q Did the NAC weigh in on the proposed  
12 changes to the race and ethnicity question?

13 A I believe they did. I was not an active  
14 NAC meeting attendee at that time, but it's my  
15 understanding that they -- that they weighed in on  
16 that.

17 Q Do you know how they weighed in?

18 A You know, I think the NAC is a diverse  
19 group of people. Race and ethnicity questions are  
20 something that never make everybody happy, so I  
21 think there was lots of discussion amongst  
22 different viewpoints of the NAC about what was the

1 best approach to make.

2 Q Did the NAC ultimately make a  
3 recommendation?

4 A I'd have to go back to see what their  
5 recommendation was.

6 Q You don't recall? 401/403

7 A I don't recall.

8 Q What about the MENA changes?

9 A Yes. That would be one of the  
10 controversial issues that was discussed amongst  
11 the NAC, so.

12 Q For the record, can you just explain what  
13 the proposed MENA changes were?

14 A It was to add MENA as a separate category  
15 on a combined race and ethnicity question.

16 Q So when we talk about changes to the race  
17 and ethnicity question, are the MENA changes part  
18 of that conversation?

19 A Yes.

20 MS. GOLDSTEIN: Can we stamp this,  
21 please?

22 I'm going to apologize. These are not



1 stamped.

2 (Plaintiffs' Exhibit 22, U.S. Department  
3 of Commerce Census Bureau National Advisory  
4 Committee on Racial, Ethnic and Other Populations  
5 Charter, was marked.)

401/403

6 BY MS. GOLDSTEIN:

7 Q I'm showing what's been marked as  
8 Plaintiffs' Exhibit 22. It's titled U.S.  
9 Department of Commerce Census Bureau National  
10 Advisory Community on Race and Ethnicity and Other  
11 Populations Charter. It is a four-page document.

12 Do you recognize this document?

13 A I'm not sure I've seen this or not. It  
14 looks like pretty standard -- standard boilerplate  
15 for advisory committee charter.

16 Q So you've seen charters like this before?

17 A Yes.

18 Q Okay. And if we go to Section 3,  
19 objectives and scope of activities, it states that  
20 "The committee will advise the director of the  
21 Census Bureau."

22 That's you, correct?



1 A Yep.

2 Q "On the full range of economic housing,  
3 demographic socioeconomic, linguistic,  
4 technological, methodological, geographic,  
5 behavioral and operational variables affecting the  
6 cost accuracy and implementation of Census Bureau  
7 programs and surveys, including the decennial  
8 census."

9 Correct?

401/403

10 A Uh-huh. Yes.

11 Q And so this charter -- does the  
12 citizenship question fall within this scope of  
13 activities?

14 MS. BAILEY: Objection. Form.

15 THE WITNESS: Yes, it would.

16 BY MS. GOLDSTEIN:

17 Q If you go further down, it explains that  
18 "The committee will address census policies,  
19 research and methodology tests, operations,  
20 communications/messaging and other activities to  
21 ascertain the need -- ascertain needs and best  
22 practices to improve Census's surveys, operations

1 and programs."

2 Correct?

3 A Correct.

4 Q As part of this mandate, did the  
5 NAC -- you've mentioned that the NAC weighed in on  
6 the citizenship question, correct?

401/403

7 A Yes, they did.

8 Q And --

9 A I was not in attendance at that meeting,  
10 though, so.

11 Q Other than the meeting that you've  
12 referred to before, did the NAC weigh in, at all,  
13 on the citizenship question?

14 A Not that I know of.

15 Q If you go to the next paragraph, it  
16 mentions that the committee, the NAC, will review  
17 and provide formal recommendations and feedback on  
18 working papers, reports and other documents  
19 related to the design and implementation of  
20 Census Bureau programs and surveys, correct?

21 A Yes.

22 Q Did the NAC review any of the memos that



1 the Census Bureau prepared regarding the  
2 citizenship question?

3 A Not that I know of.

4 Q Did you or anyone on your staff, to your  
5 knowledge, provide the NAC with copies of those?

6 A No. What this refers to is the items  
7 that are part of an agenda of a meeting. There  
8 was not an agenda of a meeting --

401/403

9 Q Okay.

10 A -- in that early 2018 time frame, so.

11 Q When were the meetings for the NAC?

12 A I think the NAC meeting was June, if I'm  
13 not mistaken.

14 Q And then there would be a second one?

15 A You know, late in December.

16 Q Did the NAC provide any formal  
17 recommendations or feedback on the citizenship  
18 question?

19 A I mean, they certainly have not read the  
20 recommendation, the -- or at least I don't recall  
21 reading the recommendation on this. They  
22 certainly verbally and have PowerPoint slides in



1 relationship to this, so.

2 Q Is there a process by which the  
3 Census Bureau formally reaches out to ask for the  
4 NAC's advice?

5 A So --

6 Q Is that what you described before?

7 A So -- so we have a group that's in charge  
8 of the -- the advisory committees. They meet with  
9 the chair and sometimes other parts of the  
10 committee to discuss upcoming meetings and ongoing  
11 response to recommendations, and so there's  
12 relatively regular communications between our  
13 staff and the committees. 401/403

14 Q And who is the group that's in charge of  
15 the NAC?

16 A So they're in our communications area,  
17 so.

18 Q Who is that?

19 A Tara Dunlop Jackson.

20 Q Anyone else?

21 A She's the person in charge.

22 Q And is that also for the CSAC?

1 A CSAC, yep. And the FESAC.

2 Q What is the FESAC?

3 A The Federal Economic Statistics Advisory  
4 Committee.

5 Q So can I have that one back?

6 (Plaintiffs' Exhibit 22, Email, was  
7 marked.)

401/403

8 BY MS. GOLDSTEIN:

9 Q Did you see the PowerPoint presentation  
10 that the NAC prepared that you referred to  
11 earlier?

12 MS. BAILEY: Objection. Vague.

13 THE WITNESS: Are you referring to the  
14 one by Arturo Vargas?

15 BY MS. GOLDSTEIN:

16 Q Yes.

17 A Yes.

18 (Plaintiffs' Exhibit 23, Emails, was  
19 marked.)

20 BY MS. GOLDSTEIN:

21 Q I'm showing what has been marked as  
22 Plaintiffs' Exhibit 23. It is an email chain

1 Bates-stamped 8630, 8631. Do you recognize this  
2 document?

3 A I think so, yeah.

4 Q What is this?

5 A So I think we were referring back to  
6 their recommendations.

7 Q What were the NAC's recommendations with  
8 respect to the citizenship question?

9 A To not ask it. 401/403/802

10 Q After the NAC made the recommendation to  
11 not ask the citizenship question, what was the  
12 Census Bureau's next steps in response to that  
13 recommendation?

14 A I'm sure we're working on the response.  
15 Say, you know, decision's been made, as was  
16 communicated in the meeting.

17 Q Has that response gone out yet?

18 A No. I don't know.

19 Q Who would know?

20 A Tara.

21 Q So in this email, it states towards the  
22 very bottom on 8630 that, "The committee believes



1 the situation is so dire that it considers it a  
2 crisis and requires the immediate attention of the  
3 U.S. Secretary of Commerce and the Acting Deputy  
4 Secretary of Commerce."

5 Did the NAC ever have any direct  
6 communications or meetings with the U.S. Secretary  
7 of Commerce?

8 MS. BAILEY: Objection. Foundation.

9 (Thereupon, the court reporter  
10 clarified.)

11 THE WITNESS: So I don't believe that the  
12 NAC as a committee has.

401/403

13 BY MS. GOLDSTEIN:

14 Q Okay.

15 A It's my understanding that Arturo was one  
16 of the people that the Secretary spoke to.

17 Q Was there -- what was the result of this  
18 email?

19 A I don't know what you mean by that.

20 Q So you mentioned that Arturo Vargas met  
21 with Ross?

22 A Prior to the decision.

1 Q Prior to the decision.

2 Do you know how, if at all, the NAC's  
3 recommendation with respect to the citizenship  
4 question was taken into account by the Commerce  
5 Department?

6 MS. BAILEY: Objection. Form.

7 THE WITNESS: I don't know. I am pretty  
8 sure that Arturo and the Secretary spoke and  
9 Arturo had his opportunity to state his case to  
10 the Secretary. 401/403/802

11 BY MS. GOLDSTEIN:

12 Q And other than that one meeting that  
13 you've referred to, the NAC meeting, did the  
14 Census Bureau have any additional meetings about  
15 the citizenship question with NAC?

16 MS. BAILEY: Objection. Foundation.

17 THE WITNESS: No.

18 BY MS. GOLDSTEIN:

19 Q Other than the meeting that you've  
20 described with the NAC, did the Census Bureau have  
21 any meetings --

22 A I'm sorry.



1 Q Go ahead.

2 A I mean, so they're -- on other work,  
3 there are ongoing discussions with the NAC and a  
4 range of matters. The NAC has subcommittees that  
5 work with staff directly.

6 Q Uh-huh.

7 A You know, I'm sure in those meetings the  
8 topic came up.

9 Q What are those subcommittees where you  
10 think the topic came up?

11 A So I think there's -- you know, I can't  
12 remember the names of the subcommittees, but  
13 there's some that work on the ACS. I think one  
14 that's roughly on administrative records. So  
15 various sort of subtopics. CSAC has them, as  
16 well.

401/403

17 Q And what is the CSAC's role?

18 A Very similar. I'm sure if you go back  
19 and read the charter, it reads almost probably  
20 exactly the same.

21 (Plaintiffs' Exhibit 24, U.S. Department  
22 of Commerce Bureau of the Census Scientific



1 Advisory Committee Charter, was marked.)

2 BY MS. GOLDSTEIN:

3 Q I'm showing what has been marked as  
4 Plaintiff's Exhibit 24. It is the U.S. Census  
5 Scientific Advisory Committee Charter. Is this  
6 the CSAC charter?

7 A Yes.

8 Q And this charter also provides that it  
9 will provide formal review and feedback on  
10 internal and external working papers, reports and  
11 other documents related to the design and  
12 implementation of census programs and surveys?

13 A Yep.

401/403

14 Q Did the CSAC provide any formal review of  
15 the memos relating to the citizenship question?

16 A No.

17 Q Did the CSAC provide any feedback on any  
18 of the memos relating to the citizenship question?

19 A No.

20 Q Why not?

21 A Again, it was not part of an organized  
22 agenda in the meeting where they were -- where

1 those -- this was something that happened in the  
2 compressed time frame, and we didn't have the  
3 normal period through which we could have these  
4 sorts of engagements.

5 Q Is it fair to say in the normal course,  
6 when a change is proposed to the decennial census,  
7 it's on a longer time frame?

8 MS. BAILEY: Objection. Speculation.

9 THE WITNESS: I mean --

10 BY MS. GOLDSTEIN:

401/403

11 Q For example, the --

12 A No.

13 Q -- race and ethnicity proposed changes?

14 A Yes. It was on a longer time schedule  
15 that allowed more feedback from the advisory  
16 committees.

17 Q And typically, in the ordinary course,  
18 when there is a proposed change to a question,  
19 that proposed change is raised to the advisory  
20 committees, correct?

21 A If it's significant.

22 Q So, typically, in the ordinary course,

1 where there is a proposed significant change to  
2 the census questionnaire, that proposed change is  
3 raised to the advisory committees, correct?

4 A Yes.

5 Q Including the NAC?

6 A Yes.

7 Q And including the CSAC?

8 A Correct.

9 Q But that did not happen with the  
10 citizenship question, correct?

11 A It did not.

401/403

12 Q Because there wasn't time?

13 A Because there wasn't time.

14 Q Were there any other reasons why the  
15 citizenship question was not raised to the  
16 advisory committee?

17 MS. BAILEY: Objection, speculation.

18 THE WITNESS: No.

19 That timing was the primary issue, yeah.

20 BY MS. GOLDSTEIN:

21 Q Were there any --

22 A No.



1 Q -- other issues?

2 A Not that I know of.

3 Q Okay. Did CSAC, which is the  
4 Census Scientific Advisory Committee, right?

5 A Yes.

6 Q Provide any feedback on the citizenship  
7 question?

8 A Yes, they did.

9 Q What was their feedback on the  
10 citizenship question?

11 A So they had a short presentation about it  
12 at the spring CSAC meeting where they argued  
13 against it.

401/403/802

14 Q For what reasons?

15 A For many of the normal reasons, the short  
16 time frame. They were concerned about it not  
17 being tested.

18 Q Has the Census Bureau responded to CSAC's  
19 recommendation yet?

20 A I think we have, but I'm not sure. I'd  
21 have to see if that's gone out or not.

22 Q Who would know?

1 I'd like to follow up on something you  
2 said earlier. I believe your testimony was that  
3 it's difficult to simulate the decennial census  
4 because it's unique. Is that a fair  
5 characterization?

6 A Correct.

7 Q Okay. But, in fact, that the  
8 Census Bureau does the multiyear testing program  
9 to prepare for the census; is that correct?

10 A That's correct.

11 Q Do you know when that testing process  
12 started?

401/403

13 A 2013.

14 Q So seven years in advance of the  
15 decennial census, correct?

16 A Correct.

17 Q And from that testing, the Census Bureau  
18 determines -- obtains various pieces of  
19 information that are useful for development of the  
20 2020 census?

21 A Correct.

22 Q For example, self-response rates?

1 A That's one thing that --

2 Q Okay.

3 A So a testing self-response rate is not  
4 that indicative of a census self-response rate  
5 because of the lack of advertising and --

6 Q But, in fact, you do do tests to  
7 determine self-response rates in preparation for  
8 the decennial census?

9 A I don't think we did any tests whose  
10 purpose it was to determine what the self-response  
11 rate was.

12 Q Do you also use these tests to determine  
13 or to obtain information about nonresponse  
14 follow-up procedures?

401/403

15 A About procedures, yes.

16 Q And about the use of administrative  
17 records?

18 A And about -- yes.

19 Q And about the use of data capture systems  
20 or the functionality of the those systems?

21 A Correct.

22 Q How about for language support



1 systems --

2 (Conference call interruption.)

3 THE WITNESS: Okay. All right. Please  
4 say the question again. 401/403

5 BY MR. TILAK:

6 Q And how about language support systems or  
7 translations services?

8 MS. BAILEY: Objection. Vague.

9 THE WITNESS: So there was some stuff  
10 done with language, yes.

11 BY MR. TILAK:

12 Q So in short, this multiyear testing  
13 program does provide meaningful information that  
14 the Census Bureau uses to prepare for the 2020  
15 census?

16 A Yes.

17 Q Did you do any tests where the sole  
18 purpose was not self-response rates but one of the  
19 items that was looked at was self-response rates?

20 MS. BAILEY: Objection. Form.

21 THE WITNESS: So we always look at the  
22 self-response rate as a matter of course.

1 that's not necessarily the rule.

2 Q It's not a prerequisite to be hired as a  
3 decennial census enumerator?

4 A Not if you're going to try to hire  
5 hundreds of thousands of people, it's not.

6 Q Earlier today you mentioned the concept  
7 of a hard-to-count population. What is a  
8 hard-to-count population?

9 A So there are certain subpopulations that  
10 are lower self-response rates. You know, recent  
11 immigrants, you know, people in poverty, you know,  
12 folks on tribal lands. 401/403

13 Q How about noncitizen?

14 MS. BAILEY: Objection. Vague.

15 THE WITNESS: Noncitizen, their recent  
16 immigrants would be included in that.

17 BY MR. TILAK:

18 Q How about households with limited English  
19 proficiency, are they considered --

20 A Yes.

21 Q -- considered a hard-to-count population?

22 A Yes.

1 Q In general, isn't it the case that more  
2 nonresponse follow-up is needed for hard-to-count  
3 populations compared to the population at large?

401/403

4 A Yes.

5 Q Now, for the 2020 census, what is the  
6 maximum number of times that an enumerator will  
7 visit a household that has not self-responded?

8 A I think, by design, six times.

9 Q And six is not the number at which the  
10 Census Bureau expects every household to have  
11 responded, correct?

12 MS. BAILEY: Objection. Vague.

13 THE WITNESS: So most households that  
14 respond to NRFU will respond before six visits.  
15 It's just some households are harder to get than  
16 others.

17 BY MR. TILAK:

18 Q Sir, so after six visits, some households  
19 may still not have responded?

401/403

20 A Correct.

21 Q And as compared to the U.S. population as  
22 a whole, is it more likely that hard-to-count



1 populations would still not be counted after those  
2 maximum of six visits?

401/403

3 MS. BAILEY: Objection. Form.

4 THE WITNESS: It is. Hard-to-count  
5 populations will have a higher proportion in the  
6 higher count of NRFU visits.

7 BY MR. TILAK:

8 Q And would they also have a higher  
9 proportion in the amount of people who have not  
10 been enumerated after the maximum of NRFU visits?

11 MS. BAILEY: Objection. Form.

12 THE WITNESS: That's actually more  
13 difficult to say.

14 BY MR. TILAK:

15 Q Are you aware of any studies assessing  
16 that question?

17 A I know that imputation rates are slightly  
18 higher, but it's hard to -- you know, the -- what  
19 happens at the end of NRFU is -- is -- you know,  
20 we seek proxy responses and that sort of thing, as  
21 well. So proxy rates are definitely higher  
22 for hard-to-count communities.

1 Q And are proxy rates -- are proxies sought  
2 for households that do not respond to nonresponse  
3 follow-up?

4 A Yes.

5 Q Are they sought in any other circumstance  
6 in the context of the decennial census?

7 A If we received a response, we wouldn't  
8 use a proxy response.

9 Q So the only time you would use a proxy  
10 response is if a household didn't respond in NRFU?

11 A Yes.

12 Q Now, the maximum of six visits, is that  
13 set, in part, based on budgetary and staffing  
14 considerations?

15 A Yes.

16 Q Because the census has a limited staff?

17 A Yes.

18 Q And limited budget?

19 A And a limited budget --

20 Q Budget?

21 A -- and a limited schedule.

22 Q And we just mentioned proxies. Who

1 qualifies as a proxy for a nonresponding  
2 household?

3 A I don't understand the --

4 Q Is it neighbors or landlords --

5 A So you're asking who could give a proxy  
6 response for --

7 Q Right.

8 A Typically, neighbors or other -- you  
9 know, neighbors, sometimes maybe a postal worker.  
10 You know, somebody with direct knowledge of the  
11 number of people living in that house.

12 Q How does the Census Bureau go about  
13 identifying who has this knowledge, minimum  
14 knowledge --

15 MS. BAILEY: Objection. Vague.

16 THE WITNESS: So there are procedures and  
17 NRFU training about what to do. And, you know,  
18 obviously, asking a neighbor is the key.

19 BY MR. TILAK:

20 Q For the 2020 census, is there a maximum  
21 number of proxy visits?

22 A So we try -- if we haven't found anybody



1 by four or five, we start looking for a proxy  
2 then.

3 Q Is there a point in which you stop  
4 looking for a proxy?

5 A So, you know, the design is to stop at  
6 six.

7 Q And it's possible that after six visits,  
8 you haven't gotten the response in nonresponse  
9 follow-up and you also haven't gotten the response  
10 in proxy; is that right?

11 A That is true, yes.

12 Q And is that the situation -- where you  
13 haven't gotten the response in nonresponse  
14 follow-up or proxy, is that a situation where you  
15 would apply imputation?

16 A Yes.

17 Q And I think you mentioned this earlier,  
18 but compared to the U.S. population generally, are  
19 proxy rates for hard-to-count populations higher?

20 A Yes.

21 Q Are administrative records another way  
22 that the Census Bureau can use to enumerate a

1 household that has not self-responded?

2 A Yes.

3 Q And to determine the number of people who  
4 live in a household, what administrative records  
5 does the Census Bureau look at?

6 A So a variety of administrative records.  
7 So, importantly, you know, income tax returns,  
8 other government administrative records from  
9 Social Security or -- or various, you know,  
10 assistance programs, SNAP or -- but also using  
11 other information like, you know, whether the mail  
12 is being delivered to the house at the current  
13 time and that sort of stuff.

14 It's actually a pretty small share of  
15 the -- you know, it's only like 4 percent of the  
16 households can be enumerated that way, where we  
17 have high -- high-quality records that are very  
18 stable over a period of time.

19 Q So the ability to use administrative  
20 records applies to a fairly small portion of the  
21 population; is that correct? 401/403

22 A Of the NRFU population, yes.

1 Q Of the NRFU population.

2 Compared to the U.S. population at large,  
3 is the -- can administrative records be used to  
4 enumerate hard-to-count populations at a smaller  
5 rate than the U.S. population at large? 401/403

6 MS. BAILEY: Objection. Form.

7 THE WITNESS: That is the case.

8 BY MR. TILAK:

9 Q Is whole person imputation a mechanism  
10 that the Census Bureau uses to enumerate  
11 households that have failed to self-respond?

12 A And failed -- non- -- didn't respond in  
13 nonresponse follow-up.

14 Q Does the Census Bureau try to obtain a  
15 proxy response before resorting to --

16 A Yes.

17 Q -- whole person imputation?

18 A Yes.

19 Q And briefly, what is whole person  
20 imputation? 401/403

21 A It's when the count in the house is  
22 imputed and their characteristics are imputed.



1 Q How is that done?

2 A Using neighborhood characteristics

401/403

3 and -- so --

4 Q Where does the Census -- sorry. Finish  
5 your answer.

6 A From the other people that have  
7 responded.

8 Q From what sources does the Census Bureau  
9 determine the neighborhood characteristics that it  
10 then uses to impute to the households?

11 A So from the ACS, from administrative  
12 records, but also, really important here, from the  
13 other responses to the Census.

14 Q Now, besides NRFU and proxy responses and  
15 administrative records and whole person  
16 imputations, are there any other methods that the  
17 Census Bureau can use to enumerate a household  
18 that fails to self-respond?

19 A That's pretty much it.

20 Q That's the whole list.

21 If there is a decline in the  
22 self-response for a subpopulation within the U.S.

1 population, is it your understanding that this  
2 will be associated with an increase in the net  
3 undercount of that population?

4 A That's not necessarily the case. It  
5 would be an increase in the NRFU workload for that  
6 population.

7 Q And so if there's a decline in 401/403  
8 self-response, then the NRFU workload would be  
9 increased, correct?

10 A Yes.

11 Q Are you aware of any studies that have  
12 analyzed the relationship between a decline in  
13 self-response in a particular subpopulation and  
14 the net undercount for that subpopulation?

15 A I'm not familiar with any. That doesn't  
16 mean they don't exist, so -- again, this is -- I'm  
17 an economist, not a demographer.

18 Q Do you know who would be the right person  
19 to ask about this at the Census Bureau?

20 A Karen Battle I would start with. Or I  
21 would add -- no. Karen is a good person.

22 Q And if there's a decline in the

PL obj (274:22 to 275:19), FRE 701 to 705

1 self-response for a hard-to-count population,  
2 would that be associated with the net undercount  
3 for that hard-to-count population?

4 A Again, not necessarily. It means that we  
5 would have a higher NRFU workload for that  
6 population, and we may capture all of those folks  
7 being NRFU.

8 Q So the net undercount would be avoided if  
9 the NRFU procedures were as effective for that  
10 hard-to-count population as for the population at  
11 large; is that a fair statement?

12 A Or as is -- as good as they were for that  
13 subpopulation before.

14 Q Could you explain that?

15 A Well, you know, you're trying to  
16 enumerate this subpopulation, so if only the  
17 self-response is now at issue but NRFU is not an  
18 issue, you should be able to pick everybody else  
19 up with NRFU, so.

20 Q Now, you testified earlier about the  
21 memos that Dr. Abowd prepared on January 19th and  
22 March of 2018. Was it your testimony that you



1 A No.

2 Q So you would agree that the  
3 inclusion -- or the citizenship question could  
4 potentially be much more burdensome and would lead  
5 to a larger decline in self-response for  
6 noncitizen households?

7 A Correct.

8 Q And noncitizen households here are any  
9 households with at least one noncitizen?

10 A Correct.

11 Q And then if we could turn to Exhibit 16,  
12 which I believe is the March 2018 memo, starting  
13 Bates was 0009812, I believe.

14 A I don't have it.

15 Thank you. This is the questions. It's  
16 not the -- you're looking for the Secretary's  
17 memo?

18 Q Correct. Yes. I apologize for that  
19 confusion.

20 If I can direct you to Bates ending on  
21 15, the last full paragraph that starts, "how  
22 might inclusion."

1 A Uh-huh.

2 Q Halfway through that paragraph,  
3 "Inclusion of a citizenship question on the 2020  
4 census questionnaire is very likely to reduce the  
5 self-response rate pushing more households into  
6 NRFU."

7 Do you agree with that statement?

8 A Yes.

9 Q And then the last statement in that -- or  
10 the second to last sentence in that paragraph,  
11 "Those refusing to self-respond to the citizen  
12 question are particularly likely to refuse to  
13 respond in NRFU, as well, resulting in a proxy  
14 response."

15 A Uh-huh.

16 Q Do you agree with that statement?

17 A Yes.

18 Q So would it be fair to say between these  
19 two memos, that it is likely that a citizenship  
20 question will lead to a decline in self-response  
21 among noncitizen households?

22 A That's what the analysis predicted, yes.

1 Q And then these noncitizen households who  
2 did not respond because of the citizenship  
3 question were particularly likely to refuse to  
4 respond in NRFU, as well?

5 A Yes.

6 Q And that would result in a proxy  
7 response?

8 A Correct.

9 Q In evaluating the citizenship question,  
10 did anyone at the Bureau look at the efficacy of  
11 non-response follow-up procedures for noncitizen  
12 households in comparison to other segments of the  
13 population?

14 A Not in -- I don't think that was -- we  
15 have other things that look at efficacy of NRFU  
16 procedures. That was not done as part of this  
17 analysis.

18 Q Apart from this analysis, was any study  
19 of the efficacy of nonresponse follow-up  
20 procedures for noncitizen households compared to  
21 other parts of the population done at the  
22 Census Bureau?



1           A    So I'm not sure if there -- I'd have to  
2   go back and see if there was really a study that  
3   had that as its goal, but analyzing the -- you  
4   know, procedures and how well, you know, our  
5   instruments work and stuff like that was,  
6   obviously, a big part of the '18 test, so --

7           Q    But you're not aware of a study that  
8   focused specifically on looking at efficacy for  
9   the noncitizen --

10          A    No.

11          Q    -- households --

12          A    No.

13          Q    And you said that was tested in the  
14   end-to-end test?

15          A    NRFU procedures were, yes.

16          Q    And the end-to-end test did not contain  
17   the citizenship question, correct?

18          A    Correct.

19          Q    Did anyone at the Bureau evaluate the  
20   efficacy of nonresponse follow-up procedures for  
21   Hispanic households or households with limited  
22   English proficiency as compared to the general

1 U.S. population?

2 A So, again, you know, the answer there is  
3 the same. We do try to have in-language people as  
4 enumerators. So there's often an after-event  
5 analysis of how well that seems to work, so.

401/403

6 Q But you're not aware of any specific test  
7 that targeted that question?

8 A No, not -- not specifically.

9 Q How about -- did the Bureau evaluate the  
10 efficacy of nonresponse follow-up procedures based  
11 on census tract or based on state?

12 A On census or state?

13 Q Yes.

14 A I mean, obviously, we look at -- we look  
15 at things by the characteristics of different  
16 units of geography, but, you know, I'm not sure  
17 what you mean by -- what -- what specifically are  
18 you trying to get at here?

19 Q Are there any tests that look at whether  
20 certain census tracts are harder to enumerate  
21 through nonresponse follow-up procedures than  
22 other citizen tracts?



1           A     So, I mean, we already -- we already know  
2     that, to some degree, because we know that those  
3     tracts are made up of higher proportions of  
4     hard-to-count populations, so that's -- I don't  
5     know what the test is that you're looking for  
6     here.    So --

7           Q     And then you mentioned for these  
8     noncitizen households that are likely to not  
9     self-respond and then will refuse to answer in  
10    NRFU, that a proxy response would be required.    In  
11    evaluating the citizenship question, did the  
12    Bureau consider whether -- consider the  
13    availability of proxies -- let me rephrase.

14                   In evaluating the citizenship question,  
15    did anyone at the Bureau consider whether the  
16    availability of proxy was the same for noncitizen  
17    households as for other parts of the U.S.  
18    population?

19           A     Not that I know of.

20           Q     How about for Hispanic households or  
21    households with limited English proficiencies?

22           A     Yeah.    I don't think we've broken



1 that -- I mean, neighbors are neighbors, so.

2 Q And has the Bureau done any analysis of  
3 the availability of proxies that's broken down by  
4 census tract or by state?

401/403

5 A No.

6 Q Has any analysis been done by the Bureau  
7 on the willingness of proxies to respond for  
8 noncitizen households versus the U.S. population  
9 at large?

10 A Not that I know of.

11 Q The same question with respect to proxies  
12 for Hispanic households or households with limited  
13 English proficiency.

14 A No.

15 Q If proxies were less available for  
16 noncitizen households, then fewer of these  
17 noncitizen households that did not respond to NRFU  
18 would be enumerated through proxies, correct?

19 MS. BAILEY: Objection. Calls for  
20 speculation.

21 THE WITNESS: Presumably.

22 BY MR. TILAK:

1 Q We already briefly discussed  
2 administrative records. In evaluating the  
3 citizenship question, did anyone at the Bureau  
4 consider the differential quality or availability  
5 of administrative records for noncitizen  
6 households as compared to the U.S. population?

7 MS. BAILEY: Objection. Form.

8 THE WITNESS: Yeah. That was analyzed in  
9 2010.

401/403

10 BY MR. TILAK:

11 Q What test was that analyzed in?

12 A I believe it was called the census 2010  
13 match study.

14 Q What was the impetus for that test?

15 A It was one of the regular tests we ran as  
16 part of the 2010 program.

17 Q Briefly, what were the findings of that  
18 study?

19 A So the study basically documented how  
20 well we could match census responses, including  
21 NRFU and proxy responses, to administrative  
22 records.

1 Q And did that study also look at the  
2 availability of administrative records for  
3 Hispanic households --

4 A That --

5 Q -- and households of --

6 A That --

7 Q -- limited English --

8 A That would --

9 Q -- proficiency?

10 A -- so it was able to demonstrate that  
11 hard-to-count populations had lower-quality  
12 administrative records.

13 (Thereupon, reporter requested to speak  
14 one at a time.)

15 BY MR. TILAK:

16 Q And when you say lower-quality  
17 administrative records, that means that the  
18 administrative records could be used to enumerate  
19 those households less of the time?

20 A Correct.

21 Q Now, with respect to whole person  
22 imputation, in evaluating the citizenship



1 question, did anyone evaluate whether whole person  
2 imputation was less accurate for households with  
3 noncitizen as opposed to the population at large?

4 A I'm not sure that that -- that's been  
5 done. I imagine it probably would be, but I don't  
6 know what study that is.

7 Q You haven't seen any study that looks at  
8 this question? 401/403

9 A I don't recall seeing it, no.

10 Q Has anyone evaluated the accuracy of  
11 whole person imputation for Hispanic or households  
12 with limited English proficiency compared to the  
13 population at --

14 A Same.

15 Q -- large?

16 A Same.

17 My guess is there's a study out there,  
18 I'm just not familiar with it.

19 Q Was any such study, to your knowledge,  
20 part of the review of the citizen question in  
21 preparation for the decennial --

22 A No.

1 Q -- census?

2 Did anyone evaluate the accuracy of whole  
3 person imputation based on census tract or state?

4 A I -- I don't know, but that would have  
5 been done, probably, in a post-enumeration survey  
6 type thing. Would not have been able to evaluate  
7 it by state, so.

8 Q And by post-enumeration survey, what do  
9 you mean by that?

10 A So that's something we do afterwards to  
11 assess the quality of the census.

12 Q So the last time that that would have  
13 been done would have been after the 2010 census?

14 A 2010, yes.

15 Q Do you know if any such survey was used  
16 in preparations for this 2020 census?

17 A So you can only do a post-enumeration  
18 survey after you do a census. So we did use those  
19 results to inform our plans and procedures for  
20 2020.

21 Q Are you aware of any specific calculation  
22 of the additional costs that would be incurred to